

**ILLINOIS STATE POLICE MERIT BOARD  
OF THE STATE OF ILLINOIS**

**IN RE THE MATTER OF:**

**SERGEANT JEFFREY R. DYBECK  
I.D. # 4549**

**Illinois State Police  
Merit Board No. 16-03**

**DECISION**

THIS CAUSE comes before the Merit Board on a six-count *Complaint* filed by Leo P. Schmitz, Director of the Illinois State Police, following a full hearing before duly appointed Merit Board Hearing Officer R. Mark Mifflin.

**FINDINGS OF FACT**

The Merit Board, having reviewed the charges filed, the evidence and testimony submitted, the Briefs of Counsel, the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law*, the *Petitioner's Response to the Hearing Officer's Recommended Findings of Fact and Conclusions of Law*, and the *Hearing Officer's Response to Petitioner's Response to Recommended Findings of Fact and Conclusions of Law*, does hereby adopt and incorporate herein the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law* and the *Hearing Officer's Response to the Petitioner's Response to Recommended Findings of Fact and Conclusions of Law* for Counts I, II, III, IV, V, and VI of the *Complaint*.

The Merit Board finds Sergeant Dybeck guilty of violating the Department's Rules of Conduct (ROC) as alleged in Count I of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Sergeant Dybeck violated ROC-002, Paragraph III.A.47.c in that he operated a Department vehicle after consuming alcoholic beverages to the point of

impairment while on duty or in uniform. Sergeant Dybeck admitted that he drove his vehicle while under the influence of alcohol when he drove to work on May 11, 2016.

The Merit Board finds Sergeant Dybeck guilty of violating the ROC as alleged in Count II of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Sergeant Dybeck violated ROC-002, Paragraph III.A.47.f in that he reported for duty while under the influence of alcohol. Sergeant Dybeck admitted that he was under the influence of alcohol when he reported to work on May 11, 2016.

The Merit Board finds Sergeant Dybeck did not violate the ROC as alleged in Count III of the *Complaint*.

The Merit Board finds Sergeant Dybeck guilty of violating the ROC as alleged in Count IV of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Sergeant Dybeck violated ROC-002, Paragraph III.A.1 in that he failed to uphold all state laws. Sergeant Dybeck admitted that he drove his vehicle while under the influence of alcohol in violation of the Illinois Compiled Statutes when he drove to work on May 11, 2016.

The Merit Board finds Sergeant Dybeck guilty of violating the ROC as alleged in Count V of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Sergeant Dybeck violated ROC-002, Paragraph III.A.7 in that he failed to conduct himself on and off duty in such manner as to reflect favorably on the Department, engaged in conduct that discredits the integrity of the Department, and impaired the operations of the Department. Sergeant Dybeck admitted that his conduct, specifically driving an unmarked squad car to work while in uniform and intoxicated, on May 11 and 12, 2016, constituted conduct unbecoming on officer.

The Merit Board finds Sergeant Dybeck guilty of violating the ROC as alleged in Count VI of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Sergeant Dybeck violated ROC-002, Paragraph III.A.39 in that he did not operate his official vehicle in a careful and prudent manner, and did not obey all laws and all Department directives pertaining to such operation. Sergeant Dybeck admitted that he drove his vehicle while under the influence of alcohol, and in an unsafe and improper manner, when he drove to work on May 11, 2016.

### **CONSIDERATION OF MITIGATING AND AGGRAVATING FACTORS**

In making its determination of the appropriate level of discipline, the Merit Board considered all mitigating and aggravating factors presented by Sergeant Dybeck and the Department, including, but not limited to, the following:

Sergeant Dybeck has taken full responsibility for his actions, and admits the conduct at issue in this case constitutes the biggest mistake of his life. Since the misconduct, Dybeck has undertaken counseling and attended AA meetings.

Sergeant Dybeck provided his performance evaluations and testimony from supervisors. The evidence shows Dybeck to be a generally good employee, and the misconduct present in this case is not characteristic of his behavior.

Sergeant Dybeck offered several prior Merit Board decisions as precedent cases. The cases provided involve other officers disciplined for misconduct involving alcohol and DUI related infractions. The cases presented resulted in suspensions ranging from 60 to 180 days. However, no case provided is an identical, completely related case to the present case, and the Board is not bound to issue the same discipline in this case.

The Department recommended a penalty of termination when filing charges in this matter. During the Hearing, Colonel JoAnn Johnson testified that termination was appropriate because of the severity of the charges Dybeck was facing.

**PENALTY**

The entirety of the evidence presented shows a substantial shortcoming on the part of Sergeant Dybeck and constitutes cause for suspension. It is, therefore, the unanimous decision of the Merit Board to suspend Sergeant Jeffrey R. Dybeck for a period of one hundred twenty (120) days.

Dated this 30<sup>th</sup> day of January, 2018.



---

Reeve Waud, Chairman  
State Police Merit Board, State of Illinois

RECEIVED

OCT 17 2017

ILLINOIS STATE POLICE  
MERIT BOARD

STATE OF ILLINOIS  
ILLINOIS STATE POLICE MERIT BOARD

IN THE MATTER OF:

SERGEANT JEFFREY R. DYBECK

I. D. #4549

DOCKET NO. 16-03

RECOMMENDED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW

R. Mark Mifflin  
Giffin, Winning, Cohen & Bodewes, P.C.  
1 W. Old State Capitol Plaza  
Myers Building, Suite 600  
P.O. Box 2117  
Springfield, IL 62705  
(217) 525-1571  
[mmifflin@giffinwinning.com](mailto:mmifflin@giffinwinning.com)

## INDEX

I.	BACKGROUND .....	3
A.	Pleadings .....	3
B.	Pre-Hearing Procedures .....	6
C.	Hearing.....	6
i.	Hearing Witnesses .....	6
ii.	Exhibits .....	7
II.	SUMMARY OF EVIDENCE.....	9
III.	GENERAL FINDINGS OF FACT .....	29
IV.	SPECIFIC FINDINGS OF FACT .....	33
V.	CONCLUSIONS OF LAW .....	38
VI.	PENALTY CONSIDERATION.....	40

## **I. BACKGROUND**

### **A. Pleadings**

On November 2, 2016, Director Leo Schmitz of the Illinois State Police filed a Complaint with the Illinois State Police Merit Board. The Complaint consists of six counts of alleged violations against Sergeant Jeffrey R. Dybeck (hereinafter "Dybeck"). In the Complaint, Director Schmitz requests that the Illinois State Police Merit Board conduct a hearing in this matter and terminate Dybeck from his employment with the Illinois State Police.

The allegations of the Complaint arise from Trooper Dybeck's actions on May 11, 2016 during which he allegedly drove from his residence in Orland Park, while in uniform and while driving his assigned squad car, to District Chicago Headquarters in Des Plaines while under the influence of alcohol. When he arrived at District Chicago Headquarters at approximately 11:17 p.m. on May 11, 2016, several officers noticed that Respondent appeared to be under the influence of alcohol. The Complaint alleged that these officers noticed that Respondent stumbled when walking up the stairs, looked disheveled, fumbled with papers, used a desk for balance, had bloodshot and glassy eyes, swayed when standing, had an odor of alcohol on his person, spoke very quickly and slurred his words.

The Complaint also alleges that a review of the video from Respondent's squad car camera during his drive from his residence to District Chicago Headquarters on May 11, 2016 showed that Dybeck repeatedly drove his vehicle in the wrong lane of traffic, crossed the solid yellow center line and the solid white roadway edge line, drove into oncoming traffic, ran off the roadway, ran two stop signs, narrowly missed colliding with other vehicles, stopped well short of intersections or in the intersection, sped up and then slowed down, could not make turns and stay within his lane of traffic, missed the lane for an entrance ramp to the interstate, ran onto the

shoulder of the interstate, drove at length in two lanes of the interstate, and could not park his car straight within a parking space at District Chicago Headquarters.

A breathalyzer test conducted at 1:14 a.m. on May 12, 2016 indicated that Dybeck blood alcohol content ("BAC") was 0.195 at that time.

Count I of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.47.c which states that officers will not operate a Department vehicle after consuming alcoholic beverages while on duty or in uniform unless such consumptions is necessitated by the nature of the duty assignment. The Complaint alleges Dybeck violated this Rule on May 11, 2016 when he operated his Department vehicle while on duty and in uniform while under the influence of alcohol from his residence to District Chicago Headquarters.

Count II of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.47.f which states that officers will not report for duty while under the influence of alcohol . . . or with an odor of alcohol on their breath. The Complaint alleged Dybeck violated this Rule on May 11, 2016 when he reported for duty at District Chicago Headquarters while under the influence of alcohol and/or with an odor of alcohol on his breath.

Count III of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.41.c. which states that officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer is the subject of the investigation and has been advised of his statutory administrative proceedings rights. The Complaint alleges that Dybeck violated this Rule on July 21, 2016 when he did not truthfully answer questions in a Department personnel investigation.



Count IV of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.1. which states that officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present. The Complaint alleges that Dybeck violated this Rule on May 11, 2016 in that he drove his squad car while the alcohol concentration in his blood was more than 0.08, a violation of 625 ILCS 5/11-501(a)(1) and/or (a)(2), a Class A Misdemeanor.

Count V of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.7. which states that officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department and that such actions will constitute conduct unbecoming an officer. The Complaint alleges that Dybeck violated this Rule on May 11, 2016 when he drove his squad car from his residence in Orland Park to District Chicago Headquarters while under the influence of alcohol, drove in an unsafe manner and committed numerous traffic infractions, and reported for duty physically and mentally unfit for duty while under the influence of alcohol and/or with an odor of alcohol on his breath.

Count VI of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.39. which states that officers will operate official vehicles in a careful and prudent manner, and will obey all laws and all Department directives pertaining to such operation. The Complaint alleges that Dybeck violated this Rule on May 11, 2016 when he drove his squad car from his residence in Orland Park to District Chicago Headquarters in Des Plaines while under the influence of alcohol, and/or repeatedly failed to maintain his vehicle within his lane of traffic, and/or failed to obey traffic signs and control devices.

### **Pre-Hearing Procedures**

The Complaint in this case was filed on November 2, 2016. Sergeant Dybeck is and has been represented by attorney Guy Studach. Assistant Attorney General Laurie Smigielski and attorney John Hosteny from the Illinois State Police have represented the Director of the Illinois State Police throughout this matter. Assistant Attorney General Emma Steimel also appeared at the hearing and filed pleadings on behalf of the Illinois State Police.

Discovery was conducted and both parties exchanged documents and witnesses as provided in the Rules. During the course of discovery, the hearing was continued from time to time by the Hearing Officer by agreement of the parties in order to enable the parties' adequate time to prepare for the hearing.

Ultimately, the hearing was held on June 12, 2017 and June 13, 2017.

### **C. Hearing**

As indicated above, the hearing in this case was held on June 12, 2017 and June 13, 2017. There were several evidentiary Motions which were filed before and during the course of the Hearing. These Motions have been resolved on the record by the Hearing Officer.

#### **i. Hearing Witnesses**

The following witnesses testified at the hearing in this case. The page number of the transcript of the proceedings upon which the testimony of the witness starts is included in parentheses.

June 12, 2017

1. Sergeant Jeffrey R. Dybeck (12)
2. Sergeant Ricardo Sandoval (41)
3. Trooper Julio Castillo (73)

4. Captain David Byrd (88)
5. Master Sergeant Bridget Gilgenberg (102)
6. Lieutenant Michael Witt (120)
7. Master Sergeant Yavet Dominguez (185)

June 13, 2017

8. Sergeant Patrick Manno (207)
9. Alfred A. Gentile (233)
10. Tony Lupo (243)
11. Joann Johnson (252)
12. Gregory W. Coate (292)
13. Lieutenant James Harris (300)
14. Jeff Pfotenhauer (311)
15. Acting Lieutenant Angelo Mollo (320)
16. John Wetstein (330)
17. Vernier Manger (361)
18. Sergeant Jeffrey R. Dybeck (recalled) (398)

**ii. Exhibits**

The following exhibits were admitted into evidence in this case:

**Petitioner's Exhibits**

Petitioner's Exhibit 1	2015 Illinois State Police Physical Fitness Inventory Test
Petitioner's Exhibit 2	Video of Sergeant Jeffrey R. Dybeck's Dashboard Camera recorded on May 11, 2016
Petitioner's Exhibit 4	BAO Certificate for Lieutenant Michael Witt

Petitioner's Exhibit 5	Des Plaines Police Department Breath Analysis Log Sheet
Petitioner's Exhibit 6	Receipt Signed by Lieutenant Michael Witt after Sergeant Dybeck took the Breathalyzer Test
Petitioner's Exhibit 7	Illinois State Police Complaint Against a Department Member
Petitioner's Exhibit 8	Certification of the Instrument Serial No. 012923
Petitioner's Exhibit 9	Curriculum Vitae of John Wetstein
Petitioner's Exhibit 10	Memorandum from John Hosteny to John Wetstein dated September 28, 2016
Petitioner's Exhibit 11	Memorandum from John Wetstein to John Hosteny dated October 12, 2016

Respondent's Exhibits

Respondent's Exhibit 1	Jeffrey R. Dybeck's Promotional Skills Evaluations and Job Performance Evaluations from August 4th, 1998 through his last evaluation on November 23, 2015
Respondent's Exhibit 2	Precedent Cases
Respondent's Exhibit 3	Curriculum Vitae of Vernier Manger
Respondent's Exhibit 4	Progress Notes written by Vernier Manger
Respondent's Exhibit 5	Documents and Homework Assignments given to Jeffrey R. Dybeck by Vernier Manger during Counseling Sessions
Respondent's Exhibit 6	Letter Written by Vernier Manger dated June 15, 2016
Respondent's Exhibit 7	Letter Written by Vernier Manger dated September 7, 2016
Respondent's Exhibit 8	Jeffrey R. Dybeck Attendance Record for Alcohol Anonymous Meetings from June 9, 2016, to the Present

## **II. SUMMARY OF EVIDENCE**

The following is a brief review of the evidence submitted in this case as determined by the Hearing Officer. This review does not include a recitation of all of the evidence presented in the case and is not intended to be an all-inclusive summary of the evidence. Instead, it is intended to serve as a guide for the basis and understanding of the recommended findings and conclusions of law of the Hearing Officer. The Hearing Officer has specifically considered all of the testimony and exhibits introduced in this case and the arguments, both written and oral, of the attorneys on behalf of the parties. The fact that many of the specifics of the testimony, documents and arguments are not included in this summary should not be interpreted to mean that they have not been fully considered by the Hearing Officer.

### ***WITNESSES***

#### **SERGEANT JEFFREY R. DYBECK (Called in the Department's Case (Pgs. 12 - 41) and Called in the Respondent's Case (Pgs. 398 - 454))**

Jeffrey Dybeck is a Sergeant with the Illinois State Police and has been with the Illinois State Police for over twenty years. Dybeck has been a trooper, sergeant and an acting master sergeant. He has no discipline or negative counseling during his tenure with the Illinois State Police until this case. In the course of his career with the Illinois State Police, Dybeck has had various assignments including field recruiter, field training officer, range instructor and firearms instructor. In addition, he has often volunteered for extra work assignments.

On May 11, 2016, the date of the events in this case, Dybeck was assigned to work the desk operations as Acting Master Sergeant in District Chicago. That night, and early the next morning, Dybeck was relieved of duty due to the events alleged in the Complaint. Dybeck has continued to work in an administrative capacity on restricted duty without police powers. In this

administrative capacity, Dybeck has also proven helpful to other Department employees by assisting in their work and, for example, by volunteering to work weekends.

Dybeck indicated that, prior to this incident, he drank socially on occasion and he has never considered himself an alcoholic. Dybeck has had no alcohol to drink since the incident of May 11, 2016.

Leading up to the incident, Dybeck was off work at approximately 9:00 a.m. on May 9, 2016 and was scheduled to report for duty at approximately 10:00 p.m. on May 11, 2016. Dybeck reported that he had been up all night and was unable to sleep the night of May 10, 2016. On May 11<sup>th</sup>, Dybeck was engaged in house chores and paperwork around his house. Dybeck testified that he had a few beers sporadically throughout the day and he specifically recalls beginning drinking before noon when he had hoped to go to sleep. He began using the alcohol to try to get to sleep on May 11<sup>th</sup> but continued drinking until approximately 7:00 p.m. Dybeck slept from 7:00 p.m. to 9:00 p.m. when he arose to get ready to go to work.

The parties stipulated that, during his administrative interview on July 21, 2016, Dybeck was specifically asked how many beers he consumed and he indicated:

Sergeant Dybeck: "I..I..I consumed some beers."

\* \* \*

Special Agent Staerk: "Do you remember how many you consumed?"

Sergeant Dybeck: "I..I..I don't. I didn't realize I was going to have to recall this. . .I..I..I could approximate, possibly six to eight."

\* \* \*

Humert: "Did you consume anything other than beer?"

Sergeant Dybeck: "No I did not."

Humert: "And it was six to eight beers from noon to 7:00 p.m.?"

Sergeant Dybeck: "I'm approximating, yes."

When confronted with the fact that a blood alcohol expert had later determined that Dybeck's blood alcohol content at 1:14 a.m. on May 12, 2016 was .195, Dybeck indicated that he did not dispute that finding. Likewise, when confronted by the fact that the blood alcohol expert had determined that Dybeck had consumed fifteen to twenty-two beers on May 11<sup>th</sup>, Dybeck indicated that he did not recall drinking that many but that it was possible that he had. Dybeck indicated that he felt capable of working. Dybeck also indicated that he had not been intentionally untruthful in his administrative interview when he indicated that he had consumed six to eight beers and he referred to the uncertainty in his testimony and the fact that he was approximating that figure.

Dybeck drove to work, leaving his home at 10:25 p.m. on May 11, 2016. He was in an unmarked car with state police license plates. The videotape from his dashcam was admitted into evidence in the case. It shows that Dybeck had, from time to time, driven in the wrong lane, had not come to a full stop, and had driven off the road onto the shoulder.

Dybeck testified that it was highly unlikely that he had been identified as a police officer during this trip because his car was unmarked and because it was raining during the trip. Dybeck also entered District Headquarters from the back which was not in view of the public.

When Dybeck arrived at work, he talked with Master Sergeant Manno, Trooper Castillo, Captain Byrd by telephone, Master Sergeant Gilgenberg, and Lieutenant Witt. When Captain Byrd was speaking with Dybeck, Byrd indicated that Dybeck was being relieved of his duties and his keys, utility belt and weapon were subsequently taken from him.

Dybeck was then taken to the Des Plaines Police Department to undergo a blood alcohol breathalyzer test. Dybeck voluntarily complied. The test indicated a blood alcohol level of .195 at 1:14 a.m. on May 12<sup>th</sup>. Dybeck was then driven back to Headquarters and then driven home. Later, Lieutenant Witt and Lieutenant Harris took Dybeck to breakfast.

Approximately two weeks later, Dybeck commenced counseling under the Department's Employee Assistance Program with psychotherapist Vernier Manger. The Employee Assistance Program paid for the first three sessions but after that time Dybeck continued the sessions weekly at his own expense. In addition, Dybeck attended AA meetings beginning on June 3, 2016 until the time of the hearing. Dybeck indicated that this was approximately 54 meetings.

During his testimony in this case following the presentation of all of the evidence, Dybeck admitted to the charges in Count I of the Complaint regarding driving under the influence in a Department vehicle. Dybeck also admitted to reporting for duty while under the influence as alleged in Count II of the Complaint. Dybeck specifically denied that he had intentionally been untruthful when he indicated that he had consumed six to eight beers on May 11<sup>th</sup> as alleged in Count III. Dybeck admitted that he had driven while under the influence as alleged in Count IV of the Complaint. Dybeck also admitted that his actions involved conduct unbecoming an officer as alleged in Count V of the Complaint. Finally, Dybeck also admitted to operating his official vehicle improperly as alleged in Count VI of the Complaint.

During the course of his testimony, Dybeck also indicated that he had a good work record, he was not an alcoholic, and that he had stopped drinking following this event, Dybeck professed that this was an isolated event, a mistake during an otherwise good career, and that he was very remorseful. Dybeck also reiterated that he had stopped drinking and was seeking



counseling as to why this happened to make sure that it will never happen again, and that he was sure that it would never happen again.

**SERGEANT RICARDO SANDOVAL**  
**(Called in the Department's Case (pgs. 41 – 73))**

Ricardo Sandoval is a Sergeant with the Division of Internal Investigation of the Illinois State Police. With reference to this case, Sergeant Sandoval rode with Special Agent Staerk from Dybeck's home to District Chicago headquarters. He described the video from Dybeck's dashboard camera of Dybeck driving to work. It was raining. Dybeck rolled through stops, crossed the center lane several times, was driving in the wrong lane to the left and to the right multiple times, and at one point stopped far from a normal stop at an intersection.

On cross examination, Sandoval acknowledged that there had been no complaints that he was aware of about Dybeck's driving that night. He also indicated that Dybeck had not hit anything on his drive to work.

**TROOPER JULIO CASTILLO**  
**(Called in the Department's Case (Pgs. 73 - 88))**

Julio Castillo is a Trooper who was working at the operations desk on May 11, 2016 when Sergeant Dybeck came to work. Based upon his DUI training, Trooper Castillo believed that Dybeck was intoxicated and unable to perform his duties. Castillo described generally how Dybeck stumbled, Castillo smelled an odor of alcohol, Dybeck repeated questions and was disheveled.

On cross examination, Trooper Castillo indicated that he did not believe that anyone from the public saw Dybeck during this time. He also indicated that this was out of the ordinary for Dybeck to act this way.

**CAPTAIN DAVID BYRD**  
**(Called in the Department's Case (Pgs. 88 – 102))**

David Byrd is a Captain and District Commander for District Chicago of the Illinois State Police. On May 11, 2016, Dybeck was on midnight operations at the desk which meant that he was assigned to basically run the District. Acting Master Sergeant Manno called Captain Byrd that night and said that he believed that Dybeck was intoxicated. Captain Byrd then called Lieutenant Witt and told Witt to go to Headquarters to deal with the situation. Captain Byrd also called Dybeck and told him not to leave, that he was relieving him of duty and to stand by, that Lieutenant Witt and Master Sergeant Gilgenberg were on their way.

**MASTER SERGEANT BRIDGET GILGENBERG**  
**(Called in the Department's Case (Pgs. 102 - 120))**

Bridget Gilgenberg is an Acting Master Sergeant for the Illinois State Police. Master Sergeant Manno called her on the night of May 11<sup>th</sup> to advise her that Manno thought Dybeck was intoxicated and that he wanted her to return to Headquarters to assist him. When Gilgenberg saw Dybeck, he was disheveled, had slurred speech, was bobbly, swearing and had glassy eyes. She took Dybeck's keys so that he would not take the car and leave. She also followed Lieutenant Witt's car, with Dybeck in it, to the Des Plaines Police Department and she was present for the breathalyzer test. She indicated she believed Witt had done the twenty-minute observation period prior to the test.

Gilgenberg indicated that it was raining on the night of the incident and that it is likely that Dybeck was not seen by the public.

**LIEUTENANT MICHAEL WITT**  
**(Called in the Department's Case (Pgs. 120 – 185))**

Michael Witt is a Lieutenant with the Illinois State Police assigned to District Chicago. On May 11, 2016, Master Sergeant Manno called him at the end of Manno's shift at the

operations desk. Dybeck was to report to work as Manno's shift ended. Manno advised Witt that Dybeck had reported to work while under the influence. Witt then called Captain Byrd to advise him of the situation. Witt went to District Headquarters to relieve Dybeck of his duties. Witt saw Dybeck and indicated that he thought Dybeck was under the influence. Witt took Dybeck into Witt's office at Headquarters and took his utility belt, including his weapon. Witt also conducted the twenty-minute observation period prior to any breathalyzer test. Witt took Dybeck to the Des Plaines Police Department for the breathalyzer and he administered the breathalyzer test to Dybeck commencing at 1:09 a.m. on May 12, 2016. The result was that Dybeck had a blood alcohol content of .195. Following the blood alcohol test, Witt prepared and filed a complaint against department member form (CADMF) to initiate a DII investigation of the incident.

Witt also testified that this was completely out of the ordinary for Dybeck. He also indicated that there had been no complaints about Dybeck from the public that night and that Dybeck had not caused any damage during his drive to work.

Lieutenant Witt also identified promotion of skills evaluations and performance evaluations for Sergeant Dybeck which he prepared and other evaluations, generally. He indicated that Dybeck had generally good evaluations and had never been disciplined prior to this incident.

**MASTER SERGEANT YAVET DOMINGUEZ**  
**(Called in the Department's Case (Pgs. 185 - 207))**

Yavet Domiguez is a Master Sergeant with the Illinois State Police. He supervised Dybeck and indicated that Dybeck was a good sergeant and that he liked his job. He also indicated that his experience was that Dybeck was truthful. Domiguez identified the December

2, 2014 evaluation which was a good evaluation for Dybeck. He indicated that the conduct involved in this incident is out of the ordinary for Dybeck.

**SERGEANT PATRICK MANNO**  
**(Called in the Departments' Case (Pgs. 207 - 233))**

Patrick Manno is a Master Sergeant for the Illinois State Police in District Chicago. On May 11, 2016, Manno was acting as shift commander, manning the operations desk for District Chicago. Dybeck was supposed to relieve him that evening.

Manno has training in detecting DUI. Based upon Dybeck's actions, speech and odor of alcohol on his breath, Manno suspected that Dybeck was under the influence when he reported for work on May 11, 2016. Manno was shocked and upset by this because he did not expect it of Dybeck.

After Manno saw Dybeck, he left the area and called Master Sergeant Gilgenberg to ask her to return to Headquarters to assist him. He then went to his car to call Lieutenant Witt to advise him that he thought Dybeck had reported for duty while under the influence. At that time, Trooper Castillo sent Manno a message that Castillo also believed that Dybeck was under the influence.

Sergeant Manno was aware that Lieutenant Witt had called Captain Byrd and that Byrd had called Dybeck to advise him that he would be relieved of duty. Manno and Master Sergeant Gilgenberg went back into Headquarters to relieve Dybeck of his duties and they took his keys. Manno believed that Dybeck could not do his job and could not drive based upon what Manno observed that evening.

On cross examination, Sergeant Manno agreed that Dybeck was a good field training officer and firearms instructor. He indicated that none of the other personnel ever complained

about Dybeck. Manno also indicated that he did not think that Dybeck was seen by the public that evening and that there were no complaints about his driving.

**ALFRED A. GENTILE**  
**(Called in the Respondent's Case (Pgs. 233 - 243))**

Alfred Gentile is currently employed as a police officer with the Belt Railway in Chicago. He was employed by the Illinois State Police from 1985 to 2011. His last rank was Master Sergeant. He was Jeffrey Dybeck's supervisor from approximately 2006 to the end of 2008. Gentile identified performance evaluations and promotional skills evaluations he had conducted on Dybeck for this time period which were good. Gentile indicated that Dybeck was a hard worker. Gentile testified that he never found Dybeck lacking in any type of capacity and that Dybeck was a very steady road trooper. He also indicated that Dybeck was trustable and reliable.

On cross examination, Gentile indicated that he was not aware of any of the details surrounding the incident in this case except what he had been told earlier that day.

**TONY LUPO**  
**(Called in the Respondent's Case (Pgs. 243 - 252))**

Tony Lupo is currently employed as an investigator for the Cook County State's Attorney's office. He was employed by the Illinois State Police from 1989 to 2014. Lupo testified that he first met Dybeck when Dybeck came out of the academy and was assigned to District Chicago. He worked with Dybeck and described Dybeck as a good road trooper. He also believed that Dybeck was trustworthy. In 2009, Lupo became a Master Sergeant and was Dybeck's supervisor. He identified the performance evaluations for 2009 and went through the specifics of those evaluations. In general, the evaluations were good and Lupo described Dybeck as a good field training officer, had a good reputation and was a steady influence on the road. He

also indicated that Dybeck was self-sufficient. He had no concern about Dybeck's abilities to perform as a road trooper. He also believed that Dybeck was truthful at all times.

On cross examination, Lupo indicated that he had no knowledge of the details of the incident involved in this case.

**COLONEL JOANN JOHNSON**  
**(Called in the Department's Case (Pgs. 252 - 292))**

Joann Johnson is a Colonel with the Illinois State Police. She has been with the Illinois State Police for over 27 years. She is currently the Colonel of the Division of Internal Investigation and has held that title since 2016. Colonel Johnson knows Dybeck because this case comes from DII during her tenure.

At the time this case came before the Disciplinary Review Board, Johnson was a Lieutenant Colonel for DII. She was present at the hearing with the four Colonels and she explained the operation of the Disciplinary Review Board. Dybeck testified at the hearing before the Disciplinary Review Board. Following all of the testimony, the recommendation of the Disciplinary Review Board was termination from the four Colonels. She agrees with the recommendation of termination because of the severity of the charges that Dybeck was facing.

Johnson believes that Dybeck violated Rule 47.c. as alleged in Count I because he drove to work in his state police vehicle while he was under the influence of alcohol. She also believed that Dybeck violated Rule 47.f. of the Rules of Conduct when he reported for duty while under the influence. She believes that Dybeck violated Count III based upon his failure to truthfully answer questions in the administrative interview. During the interview, Dybeck admitted that he drank a few beers sporadically throughout the day and that he had approximately six to eight beers. She testified that the determination from the toxicologist indicated that he had between fifteen and twenty-two beers.

Johnson also believed that Dybeck violated Rule 1 of the Rules of Conduct as alleged in Count IV because he violated the criminal DUI statute. She also believed that Dybeck violated Rule 7 involving conduct unbecoming an officer as alleged in Count V because he came to work intoxicated, dressed in a full State Police uniform and driving a State Police squad car (even though it was unmarked) with an Illinois State Police license plate affixed. Johnson indicated that Dybeck would have been visible in the vehicle, in his uniform, driving under the influence based upon his actions, and driving erratically and she believed that all of this constituted conduct unbecoming an officer. Finally, Johnson believed that Dybeck had violated Rule 39 as alleged in Count VI because he operated the official vehicle improperly on the roadway. These facts relate to the improper lane usage, erratic speed changes, and driving into oncoming traffic as indicated in the videotape.

Johnson believed that based upon the .195 blood alcohol result, Dybeck was under the influence of alcohol on the night of May 11, 2016 when he was driving to work. She went through each of the charges and explained why she believed that there were appropriate under these circumstances.

Following the Disciplinary Review Board proceedings, the recommendation of termination from the Board was forwarded to the Director and he approved the recommendation.

Johnson placed little credence on the fact that it was unclear whether Dybeck had accepted full responsibility for his actions because he had indicated that this was a one-time occurrence based upon the circumstances of his losing sleep. Johnson specifically indicated that based upon the number of beers consumed, it was her opinion that it is very hard to believe that this was a one-time occurrence.

On cross examination, Johnson admitted that she had not reviewed any of Dybeck's performance evaluations. Johnson testified that she did not think it was germane to what was involved in the Complaint. During the Disciplinary Review Board hearing, Johnson indicated that Captain Byrd had stated that Dybeck had not been a problem employee.

Johnson also admitted that she did not review the cases offered by counsel for Dybeck as precedent for any termination in this case. Instead, she indicated that she believed that the focus was properly on the actions of Dybeck in this particular case.

Colonel Johnson was also asked about the disciplinary matrix. She was not aware that the Merit Board has never approved the disciplinary matrix.

Johnson was also presented with the various disciplinary cases which had been admitted into evidence as Respondent's Exhibit 2. Johnson had very little knowledge of these respective cases. There was specific discussion about the McCarthy Merit Board case where he reported to work while under the influence of alcohol and received a sixty day suspension. Colonel Johnson was also shown the Trooper Carol McBride case where the trooper received a 60-day suspension when he consumed alcohol which resulted in impairment and contributed to a squad car accident, leaving the scene of an accident, and failure to drive in a careful and prudent manner. Johnson also discussed the Trooper Jason Woo file when the trooper was driving his squad car while under the influence of alcohol and was involved in an accident while an unauthorized female passenger was in his vehicle. Trooper Woo received a 180-day suspension. Finally, Colonel Johnson discussed the prior case of Trooper Hicks. Hicks was issued an off-duty DUI while he was in his squad car. He received a 180-day suspension.

Colonel Johnson indicated that the Disciplinary Review Board did not review any of these cases in conjunction with its consideration of the Dybeck matter. She also acknowledged



that Dybeck was not involved in any type of accident and did not cause any property damage in this case.

Colonel Johnson's cross examination questioning also attempted to establish that Dybeck could have been arrested for the criminal offense of DUI but he was not. Johnson clearly indicated that a criminal statute could be violated without criminal charges being filed and she believed that had happened in this case with the DUI.

With reference to the charge that Dybeck had been untruthful during his administrative interview, Colonel Johnson testified that this was a serious offense because it goes to the untruthfulness and credibility of the officer. She testified that she did not believe that everybody that had been found untruthful should necessarily be terminated but that it was a serious offense.

Johnson testified as to her understanding that Dybeck testified that he was unable to sleep on the day in question leading up to his reporting for work and that he drank beer to help him get to sleep. When asked about many beers he had to drink, he testified that he had a few sporadically throughout the day and ultimately stated that he had six to eight beers. Colonel Johnson acknowledged, however, that he did not specifically recall how many beers he had. She did not recall that he had used the word "approximate" with reference to the six to eight figure.

On redirect examination with reference to the precedent cases offered by the Respondent, it was established that the cases involved a different Merit Board and somewhat different facts. For example, some of the officers were on duty and some were off duty. Some had blood alcohol tests and others did not, some had videos and some did not, and in the end, none of the cases were identical to this incident. The discussion of the precedent cases did not change Johnson's opinion about whether discharge was appropriate in this case. Johnson believed that this case was severe enough that it was suitable for termination.

On re-cross examination, Johnson again acknowledged that some of the DUI cases had resulted in 180-day suspension but also pointed out that several had resulted in resignation or death and at least one in termination.

Finally, with reference to the conduct unbecoming charge, Colonel Johnson testified that she was not aware that any member of the public had seen Dybeck that evening while he was inside District Headquarters. She also testified that she was not aware that anyone had complained about Dybeck's driving that night. Finally, she testified that she was not aware whether any alert had been made within the State Police with reference to Dybeck's driving.

**GREGORY W. COATE**  
**(Called in the Respondent's Case (Pgs. 292 - 300))**

Gregory Coate is retired Master Sergeant with the Illinois State Police. He worked for the State Police from 1984 to 2011. He worked with Dybeck in District Chicago. He was Dybeck's supervisor in 2009-2010. He identified the job performance and promotional skills evaluations which he performed on Dybeck. He went through the specifics of the evaluation which were good. He was not aware of the any problems that Dybeck had with alcohol. He was very much taken aback when he became aware of the allegations in the complaint. He believed that these actions were very much out of the ordinary for Dybeck.

Coate testified that Dybeck was recommended to be promoted during the 2009-2010 period and that he had many other duties other than being a road trooper. Coate identified his evaluations as "sky-high" rating, as about as high as you could possibly get. Coate was not aware of Dybeck ever being disciplined during the time period that Coate supervised him.

On cross examination, Coate acknowledged that he was not familiar with the facts involved in this case and that the last time he supervised Dybeck was in 2010.

**LIEUTENANT JAMES HARRIS**  
**(Called in the Respondent's Case (Pgs. 300 – 311))**

James Harris is a Lieutenant with the Illinois State Police assigned to District Chicago. He has been employed with the Illinois State Police for approximately eighteen years. He knows Dybeck both professionally and personally. He and Dybeck worked together for many years on the road. Under Harris's supervision, Dybeck has an opportunity to become an acting master sergeant. Harris indicated that Dybeck did an outstanding job. Harris found Dybeck to be an excellent range instructor. Harris identified the November 2015 performance evaluation which he went through and indicated that Dybeck was performing well and that he was growing as an acting master sergeant. Harris indicated that he thought Dybeck was doing an excellent job in the position of acting master sergeant and that he thought that Dybeck would make a great acting master sergeant with that higher rank.

On cross examination, Lieutenant Harris indicated that he did not believe that Dybeck had any problems working the midnight shift. Harris was not familiar with all of the details with this incident but was aware that Dybeck had blown over the limit.

**JEFF PFOTENHAUER**  
**(Called in the Respondent's Case (Pgs. 311 - 320))**

Jeff Pfothauer is employed as an investigator with the Cook County State's Attorney's office. He had been with the Illinois State Police from 1990 to 2014. He had been a trooper, sergeant, master sergeant and retired as a Lieutenant in Special Operations. Pfothauer was Dybeck's supervisor in 2010 and 2011. He identified those evaluations. Again, these were generally good evaluations where Dybeck met and exceeded expectations. Pfothauer was aware that Dybeck was an effective and efficient range officer at the time. He described Dybeck's work efforts and abilities in 2011 as excellent. He does not recall any discipline of

Dybeck and he doubts that was possible because of the high rating Dybeck received. Pfotenhauer said he had no reason to disbelieve anything Dybeck told him.

On cross examination, Pfotenhauer indicated that he was really not aware of the circumstances surrounding this case.

**ACTING LIEUTENANT ANGELO MOLLO**  
**(Called in the Respondent's Case (Pgs. 320 - 330))**

Angelo Mollo is an Acting Lieutenant with the Illinois State Police and has been with the Illinois State Police for over 20 years. Mollo testified that he and Dybeck graduated from the academy together and are relatively close. Mollo testified that Dybeck was a very good trooper and a phenomenal range officer. Mollo is Dybeck's supervisor now since he has been placed on restricted disciplinary duty. Mollo described Dybeck's administrative duties since May 11, 2016 with reference to the handling of evidence, in charge of making photographs off DVDs for court cases, assisting with tow sheets, responding to subpoenas for requests for documents, and the like. Mollo specifically indicated that Dybeck has volunteered to work on the weekends since he was placed on restricted duty in an effort to accommodate other officers that would otherwise have to work on the weekend when their families are home.

Mollo explained that Dybeck is a kind and compassionate person notwithstanding the charges in this case. Mollo did specifically indicate, however, that the allegations in this case are very serious.

On cross examination, Mollo reiterated that the charges in this case are serious.

On re-direct examination, Mollo indicated that Dybeck had maintained a good attitude about his work even though he was doing clerical work at this time and the Department was seeking his termination.

**JOHN WETSTEIN**  
**(Called in the Respondent's Case (Pgs. 330 - 361))**

John Wetstein has a Bachelor's Degree in Biological Sciences from Southern Illinois University-Edwardsville. His primary job function with the Illinois State Police is as the toxicology training coordinator. He has held that position for 18 years. He has completed the Illinois State Police toxicology training program. Wetstein testified that Petitioner's Exhibit 9 was his curriculum vitae. It shows a significant background in forensic science related to toxicology. Mr. Wetstein was accepted as an expert witness by the Hearing Officer without objection by the Respondent.

Wetstein identified Petitioner's Exhibit 10 as a memorandum which he received from counsel for the Department with reference to the facts in this case. This memorandum included specified information about the Dybeck case and asked Wetstein to provide an estimate of the blood alcohol concentration at 10:25 p.m. and 11:17 p.m. on May 11, 2016 based upon the fact that there was a measured blood alcohol level of .195 at 1:14 a.m. on May 12, 2016.

Based upon his knowledge, training and experience, Wetstein prepared Petitioner's Exhibit 11 which was a report of his findings in response to the questions presented by the Department. Wetstein opined based upon the .195 blood alcohol test at 1:14 a.m. on May 12, 2016, that the blood alcohol concentration at 10:25 p.m. when Dybeck called in to report for duty on May 11, 2016 would have been between .222 and .251. At 11:17, when Dybeck presented for duty at Headquarters, it would have been between .215 and .234. He also opined that Dybeck would have had to consume approximately fifteen and one half to almost twenty-two beers over the entire period of time to have that blood alcohol concentration. The time of consumption that Wetstein used was from 12:00 p.m. to 7:00 p.m. on May 11, 2016.

Wetstein was also asked to extrapolate the blood alcohol level if Dybeck had consumed between six to eight beers between 12:00 p.m. and 7:00 p.m. Wetstein testified that he would expect the beers to be gone by 1:14 a.m. on May 12, 2016 when the test was performed so the blood alcohol level would be at or near zero.

On cross examination, counsel seemed to attack the credentials of Mr. Wetstein but he had already been admitted as an expert witness without objection. Counsel also inquired about some different components of the Wetstein analysis but Wetstein explained his findings and the basis for those findings.

**VERNIER MANGER**  
**(Called in the Respondent's Case (Pgs. 361 - 398))**

Vernier Manger is a psychotherapist and drug abuse counselor. She became a counselor in 1991 and such counselors were licensed in 1995. Manger identified Respondent's Exhibit 3 as her resume including extensive work and education as a substance abuse counselor. Manger has had her own private practice since 2012 doing psychotherapy for a variety of individuals. She is also a DUI assessor and treatment provider and has worked for some courts in their DUI program.

Manger first came to see Dybeck as a referral in the Department's Employee Assistance Program. She first saw Dybeck on May 25, 2016. She has seen him every week since then and he has not missed an appointment up to the time of her testimony. She identified some "homework" that Dybeck had done for her during his counseling sessions. She also went through her progress notes with reference to her treatment of Dybeck in Respondent's Exhibit 4. She saw Dybeck for three appointments under the Employee Assistance Program which was paid for by the Department. After the first three sessions, Dybeck's insurance indicated to her that they would not pay for her sessions because she is not in their program. Dybeck, nevertheless,

agreed to continue with her and has been paying for the ongoing, weekly sessions himself at \$50.00 each.

Manger's sessions are intended to educate Dybeck to get him through the whole process appropriately, to help him understand alcoholism and to help him adjust to the whole situation. Manger testified that alcoholics typically have withdrawal, blackouts, hangovers, and their skin color changes. Certain diseases also may occur over a period of time. They also have histories of being homeless or doing side jobs. They really don't work.

In her experience with Dybeck over 13-1/2 months, he never exhibited any signs of alcoholism whatsoever. Dybeck is a quiet, calm, considerate man. He is close to his parents, works out, rides his bike, runs, cooks, and has a good job. He does not exhibit the symptoms of an alcoholic at all according to Manger. She testified that, in her opinion, the situation was because Dybeck was trying to sleep. He did not eat, did not sleep, used alcohol which impaired his judgment, and he did not realize he was intoxicated or he would have stayed home.

Manger testified that she believed that Dybeck had continued to see her even though he was not an alcoholic because he wanted to resolve the issues at work and wanted to find out what he could do to help work with them. She testified that Dybeck was very cooperative and did everything he was asked to do and beyond.

Manger also asked Dybeck to attend AA meetings weekly in order to hear what other people had to say too. He complied and has attended AA meetings every week for the last 13-1/2 months also. It is her understanding that Dybeck has had no use of alcohol whatsoever since May of 2016. Manger testified that she did not believe that Dybeck would ever do this to himself again.

Manger has gone so far as to write a letter on behalf of Dybeck indicating that she believed that the May 2016 incident was an isolated occurrence. This was based upon his lack of prior history and her evaluations of Dybeck himself. She also indicated that Dybeck is a dedicated, honest, responsible person. Manger indicated that she believed this incident has changed his life. He remains a committed worker.

In another letter dated September 7 involving Dybeck's treatment, Manger opined that Dybeck did not have the symptoms of an alcoholic at the time of the incident and she testified that nothing has changed her opinion since. She again indicated that this was an isolated incident. She indicated she believed Dybeck should be afforded leniency because this was an isolated incident and there is no history of drug abuse or discipline. Manger testified that Dybeck made a mistake. Manger further opined that Dybeck would never do this again in his whole life. Manger also testified that she thought that Dybeck would be able to do his job as an Illinois State Police officer. She testified that further counseling would not hurt Dybeck and that she would like to continue if Dybeck wants to continue to work through all of these situations positively and move forward. She finally again opined that the conduct of Dybeck will not repeat itself.

On cross examination, Manger conceded that she did not know Dybeck prior to May 11, 2016. She also conceded that she knew little about his life and that her opinions are based upon his self-reporting. She did not talk to Dybeck's family or friends or co-workers. She also reviewed everything that Dybeck had told her which was generally consistent with the events of May 11, 2016. She was asked some toxicology questions which she declined to address because it was not within her field of expertise. She also briefly reviewed some of the homework which



Dybeck had done which related to the toxicology of drinking and of sleep deprivation. She referenced this as an indication of Dybeck's sincerity in pursuing counseling.

On re-direct examination, Manger said that she did not disclose anything that Dybeck had told her during their counseling sessions. She reiterated that Dybeck was not an alcoholic and that she was not a toxicologist with reference to the earlier questions with reference to blood alcohol testing and results.

### **III. GENERAL FINDINGS OF FACT**

Sergeant Jeffrey Dybeck has been employed by the Illinois State Police for over twenty years. Dybeck has proceeded through the ranks of trooper, sergeant, and acting master sergeant. He has successfully completed various assignments including field recruiter, field training officer, range instructor and firearms instructor, and he has volunteered for extra work and assignments. He has had no discipline or negative counseling prior to the Complaint in this case.

Prior to the incident in this case, Dybeck drank socially on occasion and did not and does not consider himself an alcoholic. He has had no alcohol to drink since this incident on May 11, 2016.

Dybeck was off work on May 9, 2016 and May 10, 2016. He was scheduled to report to work at the 10:00 p.m. shift on May 11, 2016. Dybeck had not slept at all on the night of May 10, 2016 and had been up all night. On May 11, 2016, notwithstanding the fact that he had not slept, Dybeck was engaged in work around his house. Dybeck began drinking before noon and an effort to help him get to sleep in order to return to work later that night. Dybeck testified that he drank a few beers sporadically on May 11<sup>th</sup> and when asked again specifically how many beers he drank, he first said he did know but then said he was not sure but he believed he drank approximately six to eight beers.

Dybeck slept from 7:00 p.m. until 9:00 p.m. on May 11, 2016 and then got up to get ready for work. Dybeck reported for duty on his car radio after 10:00 p.m. and left his house to drive to headquarters for his shift at approximately 10:25 p.m. on May 11, 2016. He arrived at headquarters at approximately 11:17 p.m. Dybeck was driving his unmarked State Police car, in uniform and it was raining during his trip. There were no complaints received or accidents as a result of Dybeck's driving to work.

The dash camera was functioning during Dybeck's drive to work and the videotape clearly demonstrates that Dybeck was driving erratically. He crossed the center line several times, to the right and to the left, including running onto the shoulder on the interstate. He stopped extremely short at one intersection and rolled through stops at other intersections.

All of the witnesses who saw Sergeant Dybeck at headquarters testified that he was intoxicated. This included Master Sergeant Manno, Trooper Castillo, Master Sergeant Gilgenberg and Lieutenant Witt. These witnesses detected an odor of alcohol, saw Dybeck stumbling, wobbly, leaning on items to steady himself, using slurred speech and with glassy eyes. The witnesses determined that Dybeck could not do his job and could not drive a vehicle. The Hearing Officer accepts this testimony as true and finds Dybeck was intoxicated.

Dybeck testified, and the Hearing Officer accepts as true, that it is unlikely that his erratic driving was attributed to the Illinois State Police because of the rainy conditions and the fact that there was not an accident involved during his trip. The Hearing Officer also finds as indicated by the witnesses at headquarters that it was unlikely that Dybeck was seen by any member of the public when he entered the rear door at headquarters and came into the general office area and then into Lieutenant Witt's office.

As a result of the observations of Master Sergeant Manno and Trooper Castillo at headquarters, Captain Byrd was contacted. Captain Byrd called Dybeck at headquarters to advise him that he was being relieved of duty. Master Sergeant Manno and Master Sergeant Gilgenberg took Dybeck's keys and Lieutenant Witt arrived and took Dybeck's belt, including his weapon.

Lieutenant Witt conferred with Dybeck in his office and waited during the twenty-minute observation period prior to a breathalyzer test being conducted. Dybeck was taken to the Des Plaines Police Department for a breathalyzer test which he voluntarily undertook. The breathalyzer test was accurately conducted and showed a blood alcohol content of Sergeant Dybeck to be .195 at 1:14 a.m. on May 12, 2016. The Hearing Officer accepts the testimony of toxicologist John Wetstein that the extrapolation of this figure would mean that at 10:25 p.m. on May 11, 2016, when Dybeck was driving to work, his blood alcohol content was between .223 and .251. Further, Mr. Wetstein indicated that based on the same methods, the blood alcohol content of Dybeck when he reached headquarters at 11:17 p.m. on May 11, 2016 was between .215 and .224. Based upon his toxicologist training and experience, Mr. Wetstein indicated that these blood alcohol contents readings would indicate that Dybeck had between fifteen and twenty-two beers before 7:00 p.m. on May 11, 2016 when he fell asleep before getting up and coming to work. Wetstein further indicated that if, in fact, Dybeck's approximation that he had between six to eight beers was correct, the blood alcohol level at 1:14 a.m. on May 12, 2016 would have been at or close to .000.

The Hearing Officer specifically accepts the testimony of John Wetstein as to the toxicology of Sergeant Dybeck on the night of May 11, 2016 and the morning of May 12, 2016. The Hearing Officer specifically finds that Dybeck was incorrect when he testified that he had

had a few beers sporadically on May 11, 2016 and when he approximated that he had six to eight beers.

After the breathalyzer test was conducted, Dybeck was driven home. Since this incident, he has been assigned to administrative duties without police powers. Even during the time since May 12, 2016, Dybeck has continued to volunteer for additional work and has volunteered to help others with their work for the Illinois State Police.

On May 25, 2016, Sergeant Dybeck commenced counseling with Vernier Manger, who is a psychotherapist and drug abuse counselor. He attended three sessions on May 25, June 1, and June 8, 2016, which were a part of the Department's Employee Assistance Program. Thereafter, Dybeck's insurance would not pay for the counseling because Manger was not a part of its program, so Dybeck continued seeing her on a weekly basis and paid the \$50.00 per session fee out of his own pocket. These sessions continued until the time of the hearing which was between fifty and sixty sessions.

During his counseling with Manger, Dybeck also attended AA meetings weekly from June 3, 2016 until the time of the hearing. Manger believed that it would do Dybeck good to attend the meetings to see how other people were reacting to these types of situations.

It was Manger's professional opinion that Dybeck is not an alcoholic and that the events of May 11, 2016 and May 12, 2016 were not characteristic of his behavior. Manger also testified based upon her treatment of Dybeck that events such as this are not likely to happen again in the future.

All of the performance evaluations and promotional skills evaluations of Sergeant Dybeck during his tenure with the Illinois State Police were admitted into evidence. These evaluations were generally good to very good. Dybeck's supervisors over the years all testified

that he had been truthful with them and that he had done a good job in each of the tasks to which he was assigned. Additional statements were made, and the Hearing Officer accepts, that Dybeck liked his job and was happy performing it. All of the witnesses, including his past supervisors and his current co-employees and supervisors, testified that this event was out of the ordinary for Sergeant Dybeck. Everyone was shocked by these events and said it was not characteristic of Dybeck's behavior.

The Hearing Officer specifically accepts the testimony of Sergeant Dybeck that he is sincerely remorseful about these events. Dybeck reiterated what others had said, that this was an isolated event, a mistake on his part, that will never happen again. Dybeck specifically asked for leniency by the Merit Board.

#### **IV. SPECIFIC FINDINGS OF FACT**

##### **Count I**

Count I of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.47.c. which states as follows:

III.A.47. Officers will not: ...

III.A.47.c. operate a Department vehicle after consuming alcoholic beverages while on duty or in uniform unless such consumption is necessitated by the nature of a duty assignment. In any case, officers will not operate a Department vehicle after consuming alcoholic beverages to the point of impairment.

Sergeant Dybeck has admitted that he drove his vehicle while under the influence of alcohol when he drove to work on May 11, 2016. This admission is supported by the videotape of his driving to work, as well as the observations of the individuals at District Headquarters when he arrived at work that he was acting in an intoxicated manner. This is further supported by the testimony of John Wetstein as to the blood alcohol levels for Sergeant Dybeck that night.

The Hearing Officer specifically finds that Dybeck operated his Department vehicle after consuming alcoholic beverages while on duty and in uniform.

### **Count II**

Count II of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.47.f. which states as follows:

III.A.47. Officers will not: ...

III.A.47.f. report for duty while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof to any degree whatsoever or with an odor of alcohol on their breath.

Sergeant Dybeck admitted a violation of this Rule when he reported for duty on May 11, 2016 while under the influence of alcohol. The blood alcohol determinations, the observations of the witnesses including the odor of alcohol on Dybeck's breath, and the videotape of Dybeck's driving clearly demonstrate that Dybeck was under the influence of alcohol when he drove his car while on duty and when he reported to District Headquarters for work.

The Hearing Officer specifically finds that Dybeck reported for duty while under the influence of alcohol and with an odor of alcohol on his breath.

### **Count III**

Count III of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.41.c. which states as follows:

III.A.41. Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer: ...

III.A.41.c. is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation indicates that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable.

Sergeant Dybeck's statements made during his administrative interview were that he had "consumed some beers", that he did not know how many beers he consumed, that he did not realize he was going to have to recall how many beers he had drank, but that he could "approximate, possibly "six to eight" beers. Further, on another occasion when one of the questioners attempted to confirm that Dybeck was testifying that he had had six to eight beers, Dybeck once again indicated "I'm approximating, yes." The Hearing Officer finds that this testimony was not true. As indicated above, the Hearing Officer accepts the testimony of the witnesses and John Wetstein that Dybeck was intoxicated and that he had had between fifteen and twenty-two beers during the day on May 11, 2016.

However, contrary to the contentions of the Department, the Hearing Officer specifically finds that in order to violate this Rule, the answers to the questions must not only been untrue, but must be knowingly untrue to Sergeant Dybeck. Dybeck initially indicated that he did not know how many beers he consumed. When this line of questioning proceeded, on each occasion when he was asked, Dybeck was equivocal and indicated that he could only approximate that he had consumed six to eight beers. He readily admitted in his testimony that it was possible that he drank between fifteen to twenty-two beers as indicated by Mr. Wetstein. Dybeck indicated that he simply did not recall doing so. The Hearing Officer specifically finds that because Dybeck's statements during his administrative interview were equivocal and not definitive, that his approximations with reference to the six to eight beers do not qualify as untruthful statements in violation of Rule 41.c.

The Hearing Officer specifically finds that Dybeck was not knowingly untruthful in his administrative interview as alleged.

#### Count IV

Count IV of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.1. which states as follows:

- III.A.1. Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.

Sergeant Dybeck admitted in his testimony that he had driven his vehicle while under the influence of alcohol, in violation of the DUI statute. Again, as with Count I, this testimony is supported by the observations of the witnesses, of the videotape of Dybeck's driving to work, and by the testimony of John Wetstein as to the blood alcohol content of Sergeant Dybeck that night.

The Hearing Officer specifically finds that Dybeck violated the criminal DUI statute.

#### Count V

Count V of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.7. which states as follows:

- III.A.7. Officers will conduct themselves on and off duty in such manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.

Sergeant Dybeck has admitted that his actions on the night of May 11, 2016 and May 12, 2016 constituted conduct unbecoming an officer in violation of Rule 7. This conduct involved him driving an unmarked State Police vehicle to work while in uniform and while intoxicated. As indicated above, the vehicle was being driven in an unsafe manner with various traffic violations. This Count also involved Dybeck's conduct while on duty after he reported for duty at Headquarters while under the influence.



The Hearing Officer accepts the admission of the violation by Sergeant Dybeck but believes that it is also worth noting that the witnesses also testified that there had been no citizen complaints about his driving that night and that no member of the public saw Dybeck at Headquarters after he reported for work. The Hearing Officer also specifically accepts the testimony of Sergeant Dybeck that the general public was not aware of his intoxicated condition and may not even have been able to determine that it was a State Police vehicle on the road due to the weather conditions that night. While Dybeck engaged in conduct which was unbecoming an officer, the extent of awareness of this conduct by the public was minimal, if it existed at all.

The Hearing Officer specifically finds that Dybeck engaged in conduct unbecoming an officer by his actions. However, as indicated with reference to Count III above, Dybeck's statements during his administrative interview were not knowingly untruthful and therefore they are not included in the conduct unbecoming finding.

#### **Count VI**

Count VI of the Complaint against Sergeant Dybeck alleges that he violated Department Directive ROC-002, Paragraph III.A.39. which states as follows:

III.A.39. Officers will operate official vehicles in a careful and prudent manner, and will obey all laws and all Department directives pertaining to such operation.

Sergeant Dybeck admitted that he violated Rule 39 because of the unsafe and improper way he operated his official vehicle on the way to work on the night of May 11, 2016. These factors are similar to the DUI counts above where the improper conduct is supported not only by the admission, but also by the videotape from the dashboard camera from Sergeant Dybeck's vehicle which showed numerous traffic violations and unsafe actions on his way to work that night.

The Hearing Officer specifically finds that Dybeck operated his official vehicle in an unsafe manner and in violation of traffic laws.

#### **V. CONCLUSIONS OF LAW**

1. The Illinois State Police Merit Board has jurisdiction over the parties hereto and the subject matter of this case.

2. This matter is decided exclusively on the evidence admitted at the hearing held in this case.

3. The burden of proof in this case rests upon the Illinois State Police. The Illinois State Police are required to prove the allegations of the Complaint by a preponderance of the evidence (80 Ill. Adm. Code Ch. IV Secs. 150.665(f), 150.680(a)). By requiring proof of a matter by preponderance of the evidence, the Illinois State Police are required to prove that the matters asserted are more probably true than not true (Illinois Pattern Jury Instructions, Civil, 21.01).

4. With reference to Count I of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 47.c. of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.47.c.). The Department has proven by a preponderance of the evidence, and Sergeant Dybeck has admitted, that a violation of this Rule occurred when Dybeck drove his State Police vehicle while under the influence of alcohol.

5. With reference to Count II of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 47.f. of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.47.f.). The Department has proven by a preponderance of the

evidence, and Sergeant Dybeck has admitted, that a violation of this Rule occurred when Dybeck reported for duty on May 11, 2016 while under the influence of alcohol.

6. With reference to Count III of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has not proven a violation of Rule 41.c. of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.41.c.). The Hearing Officer finds that because Dybeck's statements during his administrative review were equivocal and not definitive, that his approximation with reference to the number of beers that he drank do not qualify as untruthful statements in violation of Rule 41.c.

7. With reference to Count IV of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 1 of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1.). The Department has proven by a preponderance of the evidence, and Sergeant Dybeck has admitted, that a violation of this Rule occurred when Dybeck drove his State Police vehicle while under the influence of alcohol, in violation of the DUI statute.

8. With reference to Count V of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 7 of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.7.). The Department has proven by a preponderance of the evidence, and Sergeant Dybeck has admitted, that a violation of this Rule occurred when Dybeck drove his unmarked, State Police vehicle to work while under the influence of alcohol when he

was in uniform and by his actions when he reported to work at Headquarters while under the influence of alcohol.

9. With reference to Count VI of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 39 of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.39.). The Department has proven by a preponderance of the evidence, and Sergeant Dybeck has admitted, that a violation of this Rule occurred when Dybeck drove his State Police vehicle while under the influence of alcohol in an unsafe and improper manner and in violation of traffic laws.

#### **VI. PENALTY CONSIDERATION**

The Department is seeking termination of Sergeant Dybeck from employment with the Illinois State Police.

The Hearing Officer fully realizes and appreciates that the imposition of any appropriate penalty in this case following a finding of a violation for any charge, if any, is within the exclusive prerogative of the Illinois State Police Merit Board. Thus, no recommendation is made with reference to the appropriate penalty to be imposed in the event the Board finds a violation with reference to any count. However, in an effort to facilitate the Board's consideration of the evidence with reference to any penalty to be imposed, the Hearing Officer submits the following summary for the Board's attention with reference to these issues. This evidence highlights the penalty evidence and arguments but is not intended to be all inclusive.

First, Sergeant Dybeck offered all of his performance evaluations during his tenure with the Illinois State Police. These performance evaluations and promotional skills evaluations and generally good to very good. All authors/supervisors indicated that he was a good employee and

was truthful with them. All of them and the people which he was working with at the time of this incident indicated that they were surprised by the allegations against him because they were not characteristic of his behavior. The witnesses also uniformly indicated that Dybeck went out of his way to volunteer for additional duties and to assist other officers when needed. The Disciplinary Review Board was advised that Dybeck had a good work record but Colonel Johnson testified that she had not reviewed these performance evaluations but had, instead, focused on the facts of this incident.

Counsel for Sergeant Dybeck also offered several cases from the Illinois State Police Merit Board as precedent cases for the Merit Board's consideration. Colonel Johnson indicated that the Disciplinary Review Board had not considered these cases because the Board was more focused on the specific facts of the incident on May 11, 2016 and May 12, 2016. Several of the cases offered by Sergeant Dybeck involve DUI situations involving State Police employees in their vehicles and some involved accidents. In these cases, the officers were given lengthy suspensions but were not terminated.

A portion of the testimony of Vernier Manger was also addressed to Dybeck's request for leniency. Manger indicated that Dybeck had not shown any signs of alcoholism, that she believed that the incident involved in this Complaint was an isolated incident which was not likely to repeat itself. Manger ultimately indicated that her belief was that Dybeck should be afforded leniency under these circumstances.

Of course, Sergeant Dybeck also testified with reference to the appropriate penalty in this case. Dybeck reiterated that he had no prior negative counseling or discipline, that he had good performance evaluations, had been a good employee with the Illinois State Police, that he had undertaken counseling and attended AA meetings since the incident, and that he had been merely

a social drinker and that this was an isolated event. Dybeck indicated that he has not had any alcohol to drink since May 11, 2016 and that he did not intend to drink in the future. Dybeck indicated that he has taken full responsibility for his actions and that his actions were not intentional or malicious. Dybeck ultimately admitted that this was the biggest mistake of his life and asked the Merit Board for leniency.

Respectfully submitted in Springfield, Illinois this 17<sup>th</sup> day of October, 2017.

  
R. Mark Mifflin, Hearing Officer  
Illinois State Police Merit Board

R. Mark Mifflin, Reg. No. 01906399  
Giffin, Winning, Cohen & Bodewes, P.C.  
One West Old State Capitol Plaza  
Myers Building, Suite 600  
P.O. Box 2117  
Springfield, Illinois 62705  
(217) 525-1571  
[mmifflin@giffinwinning.com](mailto:mmifflin@giffinwinning.com)

**CERTIFICATE OF SERVICE**

Service of the foregoing document was made by hand delivering the original document, in a sealed envelope to:

Illinois State Police Merit Board  
531 Sangamon Avenue East  
Springfield, IL 62702

RECEIVED

OCT 17 2017

ILLINOIS STATE POLICE  
MERIT BOARD

and by electronic transmission (email) to:

Guy Studach  
Troopers Lodge #41, FOP  
5880 South 6<sup>th</sup> Street Rd.  
Springfield, Illinois 62703  
[gstudach@iltroopers41.org](mailto:gstudach@iltroopers41.org)

Emma Steimel  
Assistant Attorney General  
100 W. Randolph Street, 13<sup>th</sup> Floor  
Office of the Illinois Attorney General  
Chicago, Illinois 60601  
[esteimel@atg.state.il.us](mailto:esteimel@atg.state.il.us)

on this 17<sup>th</sup> day of October, 2017.



R. Mark Mifflin, Reg. No. 01906399  
Giffin, Winning, Cohen & Bodewes, P.C.  
One West Old State Capitol Plaza  
Myers Building, Suite 600  
P.O. Box 2117  
Springfield, Illinois 62705  
(217) 525-1571  
[mmifflin@giffinwinning.com](mailto:mmifflin@giffinwinning.com)

RECEIVED

NOV 02 2016

ILLINOIS STATE POLICE  
MERIT BOARD

STATE OF ILLINOIS  
ILLINOIS STATE POLICE MERIT BOARD

IN THE MATTER OF:

SERGEANT JEFFREY R. DYBECK  
I.D. No. 4549



)  
)  
)  
)  
)  
)

Illinois State Police  
Merit Board No. 16-

COMPLAINT

NOW COMES Leo P. Schmitz, Director of the Illinois State Police, pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575, and states as follows:

COUNT I

OPERATING A DEPARTMENT VEHICLE

WHILE UNDER THE INFLUENCE OF ALCOHOL

1. Jeffrey R. Dybeck (Respondent) is employed as a State Police Officer by the Illinois State Police (Department). Respondent holds the rank of Sergeant and has an adjusted seniority date of April 20, 1997. At all times relevant to this Complaint Respondent was assigned to the Division of Operations in District Chicago and worked at the District Chicago Headquarters in Des Plaines, Illinois (District Headquarters).
2. On May 11, 2016, Respondent was assigned to work as the District Operations Officer for the midnight shift, scheduled from 11:00 p.m. to 7:00 a.m. the following day. Respondent was to report for duty in uniform at District



Headquarters by 11:00 p.m. Respondent resides in Orland Park, and his normal commute to work takes about an hour.

3. Respondent left his residence at approximately 10:25 p.m., and while in uniform, drove his assigned squad car, a white Chevrolet Impala with a State Police license plate, to District Headquarters.
4. Video from Respondent's squad car camera shows that Respondent repeatedly drove his vehicle in the wrong lane of traffic, crossed the solid yellow center line and the solid white roadway edge line, drove into oncoming traffic, ran off the roadway, ran two stop signs, narrowly missed colliding with other vehicles, stopped well short of intersections or in the intersection, sped up and then slowed down, could not make turns and stay within his lane, missed the lane for an entrance ramp to the interstate, ran onto the shoulder of the interstate, drove at length in two lanes of the interstate, and could not park his vehicle straight within a parking space at District Headquarters.
5. Respondent arrived at District Headquarters at approximately 11:17 p.m., went inside, and reported to the front desk area. Several officers working within the front desk area immediately noticed that Respondent appeared to be under the influence of alcohol. These officers reported observing that Respondent stumbled when walking up three stairs, looked disheveled, fumbled with papers, used a desk for balance, had bloodshot and glassy eyes, swayed when standing, had an odor of alcohol on his person, spoke very quickly, and slurred his words. One of the officers requested Respondent to provide her with the keys to his squad car, which Respondent did.

6. One of the officers contacted Lieutenant Michael Witt, the District Special Operations officer who supervises Desk Operations, and reported their collective concerns with Respondent's condition. Lieutenant Witt drove to District Headquarters and arrived at approximately 12:25 a.m. Lieutenant Witt spoke with Respondent and observed Respondent display numerous symptoms of being under the influence of alcohol. Lieutenant Witt requested that Respondent remove his weapon and duty belt, which Respondent did.
7. Lieutenant Witt initiated a 20 minute DUI observation period and subsequently drove Respondent to the Des Plaines Police Department where Respondent voluntarily submitted to an administrative breath test. The breath test was conducted at 1:14 a.m. on May 12, 2016, and indicated that Respondent's blood alcohol content ("BAC") was 0.195 at that time. Lieutenant Witt drove Respondent back to District Headquarters, and eventually Respondent was driven to his residence.
8. John Wetstein, the Department's Toxicology Training Coordinator and an expert in forensic toxicology, reviewed the facts pertaining to Respondent's alcohol consumption and provided an estimate of Respondent's BAC at the time he drove his squad from his residence and the time he arrived at District Headquarters. In Mr. Wetstein's expert opinion, on May 11, 2016, Respondent's BAC would have been between .223 and .251 at 10:25 p.m. when he left his residence and between .215 and .234 at 11:17 p.m. when he arrived at District Headquarters. Mr. Wetstein was also of the opinion that Respondent would have had to consume more than 15 and as many as 22 beers to reach a BAC level of .195 as

indicated by his breath test and that Respondent's amount of sleep or lack thereof would not have any effect on his BAC level.

9. On July 21, 2016, agents from the Department's Division of Internal Investigation (DII) conducted an administrative interview of Respondent in the presence of his attorney after giving Respondent notice of the allegations under investigation and his administrative rights. During his administrative interview, among other statements, Respondent stated as follows: that on May 11, 2016, he was assigned as the Acting Master Sergeant on the Operations Desk at District Chicago and scheduled to work the midnight shift from 11:00 p.m. to 7:00 a.m.; that he "just had a few beers and you know, sporadically throughout the day and fell asleep and went to work"; that he drank between approximately six (6) to eight (8) Michelob Ultra beers between noon and 7:00 p.m.; that he did not drink any other alcohol, and his last drink was before 7:00 p.m.; that he slept from 7:00 p.m. until after 9:00 p.m.; that he drove his squad car from his residence to District Headquarters; that he submitted to a breathalyzer test that night and his results were .195; that he did not realize he was intoxicated but based upon his test results that would show he possibly was intoxicated; that he did not report he was unable to work because he felt he was okay, he did not feel like he couldn't perform his duties; that when he started his shift he felt okay, but that he probably should not have operated a vehicle on the roadway; that he felt he was fit for duty at 10:00 p.m., that he felt okay but apparently he was under the influence of alcohol; and that he did not think he was under the influence when he started his shift, as he didn't realize he was.

10. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.47.c., which states:

"Officers will not: ...

- (c) operate a Department vehicle after consuming alcoholic beverages while on duty or in uniform unless such consumption is necessitated by the nature of a duty assignment. In any case, officers will not operate a Department vehicle after consuming alcoholic beverages to the point of impairment."

**(First Offense-Level 7 Misconduct, Up to Termination)**

Respondent violated this rule in that on May 11, 2016, he operated his Department vehicle while on duty and in uniform while under the influence of alcohol from his residence in Orland Park to District Chicago Headquarters in Des Plaines, Illinois.

**COUNT II**

**REPORTING FOR DUTY**

**WHILE UNDER THE INFLUENCE OF ALCOHOL**

- 1.-9. Paragraphs 1. through 9., inclusive, of Count I of the Complaint are adopted and incorporated by reference as Paragraphs 1. through 9., inclusive, of Count II as if fully set out herein.

10. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.47.f., which states:

"Officers will not: ...

- (f) report for duty while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof to any degree whatsoever or with an odor of alcohol on their breath."

**(First Offense-Level 7 Misconduct, Up to Termination)**

Respondent violated this rule in that on May 11, 2016, he reported for duty at District Chicago Headquarters while under the influence of alcohol and/or with an odor of alcohol on his breath.

**COUNT III**

**FAILURE TO TRUTHFULLY ANSWER QUESTIONS**

**IN AN ADMINISTRATIVE INTERVIEW**

- 1.-9. Paragraphs 1. through 9., inclusive, of Count I of the Complaint are adopted and incorporated by reference as Paragraphs 1. through 9., inclusive, of Count III as if fully set out herein.
10. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.41.c., which states:

"Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a

Department personnel investigation when said officer: ...

- (c) is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation indicates that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable."

**(First Offense-Level 7 Misconduct, Up to Termination).**

Respondent violated this rule in that on July 21, 2016, he did not truthfully answer questions in a Department personnel investigation when he made the following statements in his administrative interview, each of which is not true:

- A. "I just had a few beers...sporadically throughout the day" (referring to May 11, 2016); and
- B. That he drank approximately six (6) to eight (8) beers on May 11, 2016.

**COUNT IV**

**VIOLATION OF STATE LAW –**

**DRIVING UNDER THE INFLUENCE OF ALCOHOL**

- 1.-9. Paragraphs 1. through 9., inclusive, of Count I of the Complaint are adopted and incorporated by reference as Paragraphs 1. through 9., inclusive, of Count IV as if fully set out herein.
10. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraphs III.A.1., which states:

“Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.”

**(Misdemeanor Offense-Level 6 Misconduct: 90 to 180 Days)**

Respondent violated this rule in that on May 11, 2016, in Cook County, Illinois, he committed the offense of Driving Under the Influence of Alcohol in violation of 625 ILCS 5/11-501(a)(1) and/or (a)(2), a Class A Misdemeanor, in that he drove his squad car while the alcohol concentration in his blood was more than 0.08, and/or he was under the influence of alcohol.

**COUNT V**

**CONDUCT UNBECOMING AN OFFICER**

- 1.-9. Paragraphs 1. through 9., inclusive, of Count I of the Complaint are adopted and incorporated by reference as Paragraphs 1. through 9., inclusive, of Count V as if fully set out herein.
10. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Paragraphs III.A.7., which states:

“Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.”

**(First Offense-Level 1 Misconduct, Reprimand – Three Days Suspension).**

Respondent violated this rule in that on May 11, 2016, he drove his squad car from his residence in Orland Park to District Chicago Headquarters in Des Plaines while under the influence of alcohol, drove in an unsafe manner and committed numerous traffic infractions, and reported for duty physically and mentally unfit for duty while under the influence of alcohol and/or with an odor of alcohol on his breath.

**COUNT VI**

**OPERATING AN OFFICIAL VEHICLE IMPROPERLY**

- 1.-9. Paragraphs 1. through 9., inclusive, of Count I of the Complaint are adopted and incorporated by reference as Paragraphs 1. through 9., inclusive, of Count VI as if fully set out herein.
10. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Paragraphs III.A.39., which states:

“Officers will operate official vehicles in a careful and prudent manner, and will obey all laws and all Department directives pertaining to such operation.”

**(First Offense-Level 1 Misconduct, Reprimand – Three Days Suspension).**

Respondent violated this rule in that on May 11, 2016, he drove his squad car from his residence in Orland Park to District Chicago headquarters in



Des Plaines while under the influence of alcohol, and/or repeatedly failed to maintain his vehicle within his lane of traffic, and/or failed to obey traffic signs and control devices.

### CERTIFICATION

A copy of Illinois State Police Department Directive ROC-002, Rules of Conduct, is provided in the incorporated attachment and is certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

### CONCLUSION

**WHEREFORE**, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and terminate Respondent from employment with the Illinois State Police.

Respectfully submitted,

  
Leo P. Schmitz, Director

Leo P. Schmitz, Director  
Illinois State Police  
801 South Seventh Street, Suite 1100-S  
Springfield, Illinois 62703